

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
MASSACHUSETTS FAIR HOUSING	)	
CENTER and HOUSING WORKS, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Civil Action No. 3:20-cv-11765-MGM
UNITED STATES DEPARTMENT OF	)	
HOUSING AND URBAN DEVELOPMENT	)	
and BEN CARSON, Secretary of the	)	
Department of Housing and Urban	)	
Development,	)	
	)	
Defendants.	)	
_____	)	

**PLAINTIFFS’ MOTION FOR LEAVE TO FILE REPLY BRIEF AND SUPPLEMENTAL  
DECLARATIONS IN SUPPORT OF PLAINTIFFS’ MOTION UNDER 5 U.S.C. § 705 TO  
POSTPONE THE EFFECTIVE DATE OF HUD’S UNLAWFUL NEW RULE**

Pursuant to Local Rule 7.1(b)(3), Plaintiffs Massachusetts Fair Housing Center (“MFHC”) and Housing Works, Inc. (“Housing Works”) move for leave to file a reply brief and two supplemental declarations in support of their motion under 5 U.S.C. § 705 to postpone the effective date of a new, unlawful rule issued by defendant Department of Housing and Urban Development (“HUD”), *Implementation of the Fair Housing Act’s Disparate Impact Standard*, 85 Fed. Reg. 50288 (September 24, 2020) (the “2020 Rule”), and for a nationwide preliminary injunction barring HUD from implementing the 2020 Rule until the Court has determined whether the 2020 Rule is valid. HUD does not oppose the motion for leave to file a reply, but does oppose the request to file supplemental declarations.

In support of this motion, Plaintiffs state as follows:

1. Plaintiffs filed their Motion under 5 U.S.C. § 705 to Postpone the Effective Date of HUD's Unlawful New Rule (ECF #11), with a supporting brief and various declarations, including one from MHFC and one from Housing Works (ECF # 12), on October 6, 2020.

2. The Court scheduled a hearing on Plaintiffs' motion and ordered the Defendants to file their Opposition by October 14, 2020 (ECF #13).

3. Defendants filed their 30-page Brief in Opposition to Plaintiffs' Motion (ECF #24) on October 14, 2020. Plaintiffs did not oppose Defendants' motion to file a brief of 30 pages (ECF #16).

4. Plaintiffs seek leave to file the attached reply brief to address certain arguments raised by Defendants in their Opposition.

5. Defendants do not oppose this request, provided that Plaintiffs' reply brief is filed and served by 3:00 p.m. on October 15. Plaintiffs have complied with this condition.

6. Plaintiffs also seek to leave to submit two supplemental declarations, one from MHFC and one from Housing Works, to further explain the injury and harm to these two organizations that the 2020 Rule will cause if it is permitted to take effect. Defendants have advised that they do not consent to the request to submit these additional declarations.

The proposed reply brief is attached as Exhibit A and the two supplemental declarations are attached as Exhibits B and C. Plaintiffs respectfully ask the Court to allow them to file all three of these papers.

By their attorneys,

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October 15, 2020

Certification of Compliance With Local Rule 7.1(a)(2)

I hereby certify that counsel for the Plaintiffs conferred with counsel for the Defendants on October 10 and October 15, 2020 regarding this motion. Counsel for the Defendants do not oppose Plaintiffs' motion for leave to file a reply, but do oppose their request to file supplemental declarations.

/s/ Mina S. Makarious

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants identified on the Notice of Electronic Filing.

/s/ Mina S. Makarious